IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE THIRD DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 3764 of 2004

Between:

M.Babitha, D/o M.Govindaiah,
R/o D.No.163, Anantha Street, Tirupathi, Chittoor District.

..... PETITIONER

AND

1 The Government of Andhra Pradesh rep.by its Principal Secretary, Environment Forests Science & Technology Department, Secretariat, Hyderabad.
2 Andhra Pradesh Public Service Commission rep.by its Secretary, Grihakalpa Compound, MJ Road, Hyderabad.
3 Principal Conservator of Forests, Government of AP, Saifabad, Hyderabad.

....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ order or direction particularly one in the nature of Writ of Certiorari after calling for the records relating to the judgment in OA No.1435/99 dated 08-09-2003 on the file of the Hon'ble A.P. Administrative Tribunal, Hyderabad and quash the same and consequently declare that the petitioner is entitled to be appointed as Assistant Conservator of Forests with effect from the date when persons with lesser ranking than her were appointed pursuant to the Notification No.9/98 taking into consideration of the Fitness Certificate issued by Sri Venkateswara Institute of Medical Sciences, Tirupathi or alternatively as per the chest measurement that is being considered in other Uniform Departments like Police and Jails in respect of Women category, with all consequential benefits

Counsel for the Petitioner: MR.K.SATYANARYANA MURTHY

Counsel for the Respondent Nos.1 and 3: GP FOR SERVICES I
Counsel for the respondent No.2: Mr. J.R. Manohar, Standing Counsel for APPSC

The Court made the following :

HON'BLE MR. JUSTICE BILAL NAZKI

AND

HON'BLE MR. JUSTICE P.S. NARAYANA

W.P.NO. 3764 OF 2004

ORDER: (Per Hon'ble Mr. Justice Bilal Nazki)

The petitioner had succeeded in a test held for appointment to the post of Assistant Conservator of Forests. She secured the merit which would entitle her to appointment, but she was not selected as it was found that she did not fulfill the criteria of physical fitness, as, according to the advertisement notification, she should have 79 cms. around the chest on expiration and must have on full inspiration, on expiration, on expansion of not less than 5 cms. The other conditions of physical fitness were fulfilled by the petitioner. The petitioner had submitted that her chest measurement was 80 cms on expiration and it was 85 cms on full inspiration and there was a difference on expansion of 5 cms, therefore at that stage she was considered for the appointment, but the rules required the petitioner to undergo a test by the medical board. The test was conducted on 11.3.1999 and the medical report was received on 12.3.1999. The medical board found,

"ii. Full inspiration 78.5 cms.

iii. Full Expiration 74.5 cms."

So there was a difference of only 4 cms, whereas the requirement

was of 5 cms, therefore she was not selected. From the advertisement notification we have seen that this requirement of difference of 5 cms between two measurements of the chest is same for male candidates as well. Since it is the prerogative of the employer to lay down standards for physical fitness, we will not be able to interfere in the matter. But, one thing which has been noted by us is that there are two medical certificates, one was obtained by the petitioner at the time of filing of the application and another issued by the Medical Board. These certificates differ with each other, whereas the first one found the petitioner fulfilling the norms, the second one only found 4 cms. difference.

Therefore we dispose of this writ petition with a direction to the respondents to have the petitioner again examined by an expert appointed by the Government. No costs.

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BN J.

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PSN J.

Dt. 3.12.2004

KR

Sd/-

ASST. REGISTRAR

To

1 The Government of Andhra Pradesh rep.by its Principal Secretary, Environment Forests Science & Technology Department, Secretariat, Hyderabad.
2 Andhra Pradesh Public Service Commissioner rep.by its Secretary, Grihakalpa Compound, MJ Road, Hyderabad.
3 Principal Conservator of Forests, Government of AP, Saifabad, Hyderabad.

4. 2 CCs to G.P. for Services-I, High Court Buildings, Hyderabad (out)

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